S.B. CIVIL MISC. APPEAL NO.512/2005
[Lalit Kishor Vs. Chandra Prakash and others]

DATED :12.07.2006.

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr. K.S. Ranawat for the appellant.

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Having heard learned counsel for the appellant, having perused the record and the impugned award dated 14.12.2001 made by the Motor Accident Claims Tribunal [First], Jodhpur in Claim Case No. 294/1997, this court is satisfied that this appeal by the injured-claimant, seeking enhancement over the amount of Rs. 30,000/- awarded by the Tribunal as compensation on account of injury sustained by him in a vehicular accident remains groundless and deserves to be dismissed without being admitted.

The appellant, then 30 years in age, made the claim for compensation in the sum of Rs. 1,08,000/- with the submissions that while riding a city-bus bearing registration No. RJ 19 P 2531 in his capacity as conductor, he fell out due to rash and negligent driving of the bus; his left arm got crushed beneath the rear wheel of the bus; he was required to be hospitalized and treated from 01.11.1996 to 05.11.1996; he

remained confined to bed for three months and could not work for eight months.

After finding the claimant having sustained injury on account of rash and negligent driving of the vehicle, while taking up quantification of compensation, the Tribunal examined the entire evidence available on record including injury and X-Ray reports, hospital ticket, bills of treatment expenditure and the testimony of the treating doctor PW-4 and found that the claimant has established his salary income at Rs. 3000/- per month though the bus owner, who was driving the bus at the time of accident, has not extended salary certificate; but the claimant has failed to establish his being prevented from work for eight months due to the injury. The Tribunal found that the case of fracture at left arm was established but also noticed that the doctor concerned opined against possibility of permanent disablement in this case. With reference to the documentary evidence on record, the Tribunal found it just that the claimant be awarded Rs. 25,000/- towards pains and sufferings, Rs. 2000/- towards treatment expenditure and Rs. 3.000/- for loss of one months' salary. The Tribunal has, therefore, made an award in the sum of Rs. 30,000/- in favour of the claimant and has further allowed him interest @ 9% per annum from the date of filing of the claim application.

Having examined the considerations adopted by the Tribunal and the award in its totality this Court is of the opinion that the award cannot be said to be grossly inadequate so as to call for interference in appeal.

The injury report Ex.6 has been prepared on 20.12.1996 and the X-ray report Ex.5 is dated 21.12.1996 whereas the accident occurred on 01.11.1996. It appears that FIR itself has been lodged on 02.12.1996 and the claimant has alleged in the FIR about not registering of the same earlier by the concerned Police Station. Be that as it may, the fact remains that the appellant-claimant was hospitalised from 01.11.1996 to 05.11.1996 and his bills of medicines, last one being dated 04.12.1996, sum up to Rs.1820/-. The appellant has alleged that his left arm remained in plaster for three months and his having made payment of Rs.3000/- per month to an attendant for three months. The appellant has also alleged Rs.10,000/- having been spent in medicines and Rs.16,000/- on the persons visiting him for eight months and has alleged that his left arm does not bend and he cannot lift heavy weight. The appellant has admitted in his cross-examination that there were no attendants with him during hospitalization. Taking an overall view of the matter, this Court is satisfied that claim has been stated exaggerated by the appellant. Claims for payment of Rs. 3,000/- per month for

three months to an attendant and similarly of spending Rs. 16,000/- on visitors seem totally unjustified. Further, there is no evidence of permanent disablement and the doctor has deposed against possibility of disablement in this case. Medical bills have been produced of Rs. 1820/- and the claim of expenses to the tune of Rs. 10,000/- does not appear correct; and taking a reasonable approximation, the Tribunal has awarded Rs. 2,000/- on that count. Though awarding of only one month's salary loss appears to be on lower side and it could have been allowed for two months, but the Tribunal has allowed reasonable and rather higher amount towards pains and sufferings and in relation to the incident of the year 1996, looking to the nature of injury of a fracture of left arm the award cannot be said to be too low or grossly inadequate. The Tribunal has allowed reasonable rate of interest at 9% per annum. The award in its totality remains that of just compensation and cannot be said to be too low so as to call for upward revision in appeal.

There is no ground to admit this appeal and the same is, therefore, dismissed summarily.

[DINESH MAHESHWARI], J.

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